

APPEAL NO. 010195

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on January 10, 2001, the hearing officer resolved the sole disputed issue by determining that the respondent (claimant) sustained a compensable repetitive trauma injury in the form of carpal tunnel syndrome (CTS) to his left hand on _____. The appellant (carrier) appeals. The carrier asserts that the claimant's medical evidence failed to prove a causal connection between his walking on the job and his CTS, and that the hearing officer incorrectly applied a subjective standard by considering the effect of the claimant's handicap on his walking at work rather than by objectively comparing the amount of walking the claimant did on the job with the amount of walking done by the general public. The claimant's response urges the sufficiency of the evidence to support the challenged determination.

DECISION

Affirmed.

The claimant testified that he is 56 years of age; that he contracted poliomyelitis in 1952; that the subsequent fusion of 17 of his spinal vertebrae affected his gait and resulted in his having to swing his left leg and foot around in an arc in order to walk; that because of injuries from falling when his leg would give way, he began using a left-side crutch in 1990; and that he commenced employment with the employer in February 1998 as a relief manager of private storage facilities. The claimant further testified that when he worked at various smaller storage facilities, he did not have to do much walking because he was able to use a golf cart to check on the security of most of the storage units and coworkers tended to leave more of the office work to him. In late February 2000, however, he was reassigned to work at several large, climate-controlled, enclosed facilities where golf carts could not be used and the amount of walking he had to do at work each week increased more than threefold. As he put it, he was doing as much walking in a day at these locations as he did in a week at the smaller facilities and "the whole day became a physical ordeal." The claimant said that he soon developed a significant increase in the pain his left hand from using the crutch. He described a technique he developed for using the crutch so as to move faster in his work, a technique in which the palm of his left hand, in the area of the median nerve, pressed onto the grip of the metal crutch. In his June 2, 2000, report, Dr. O described the additional walking demands of the claimant's job and the increased use of the crutch and stated that "[b]y using the left crutch, he has to put more pressure on the palmar aspect of the left hand causing carpal tunnel type syndromes and left elbow pain."

The carrier maintains that the Appeals Panel has often recognized that walking injuries sustained at work are generally considered to be ordinary diseases of life, not compensable injuries; that the claimant did not establish that the walking aspects of his job somehow removed his injury from the category of ordinary disease of life; that the hearing

officer erroneously considered the claimant's walking handicap, thus applying a subjective standard, and failed to compare the amount of the claimant's walking on the job with the walking done by the general public, an objective standard; and that the claimant failed to prove with expert evidence that his CTS was caused by his work. The carrier cited no legal authority for its contentions concerning the application of subjective and objective standards in the hearing officer's evaluation of the evidence nor are we aware of any such authority. Given the claimant's unrefuted testimony and the opinion of Dr. O, we are satisfied that the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge